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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,214	01/22/2004	Ernesto Gamberini	05859.0026	2749

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EXAMINER

SHARMA, RASHMI K

ART UNIT	PAPER NUMBER
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3651

DATE MAILED: 09/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/761,214	Applicant(s) GAMBERINI, ERNESTO	
	Examiner Rashmi K. Sharma	Art Unit 3651	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☒ Claim(s) 13-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ansaloni (US Patent number 6,168,048) in view of Leather (US Patent number 6,405,894).

Ansaloni discloses a unit for feeding capsules into a machine for filling capsules (2), the unit comprising a hopper (10) containing the capsules the hopper having a first axis of rotation (X), being fitted with a number of feed channels (16), and rotating continuously about said first axis (X) to move said feed channels about the first axis (X), each feed channel (16) having a longitudinal second axis (along the outer periphery of hopper 10) and receiving the capsules successively from said hopper (10).

Ansaloni also discloses wherein said feed channels (16) are connected to said hopper (10) so that said second axes are equally spaced about said first axis and also comprising a number of supporting bars (27) connected to said hopper (10) and each having at least two respective said feed channels (16), each supporting bar (27) having a longitudinal plane of symmetry (S2) containing said first axis (X), wherein the supporting bars (27) are connected to the hopper (10) so that the longitudinal planes of

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symmetry are equally spaced (i.e. radial from the first axis X), wherein the feed channels (16) of each of the supporting bars (27) are positioned with the relative said second axis substantially parallel to one another and are substantially converging with one another, and to the relative said longitudinal plane of symmetry towards the relative and a first transfer wheel (3) substantially coaxial with the first axis (X) and connected to the hopper (10) to rotate about the first axis, the first transfer wheel (3) also having first seats (6) formed in the first surface, equal to the number of feed channels (16).

Ansaloni as disclosed above fails to show a truncated, conical hopper.

Leather does disclose a truncated, conical hopper (12).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Ansaloni's hopper to be conically shaped, as taught by Leather as a matter of design choice. One having ordinary skill in the art would be reasonably apprised to utilize a conical-shaped hopper arrangement, as conical hoppers are extremely well known in the art.

Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ansaloni (US Patent number 6,168,048) in view of Leather (US Patent number 6,405,894) and Ribani (US Patent number 5,966,910).

Ansaloni as disclosed above, fails to show a second and third transfer wheels and their respective seats being equally spaced about their respective axes.

Ribani does disclose a second (2) or third transfer wheels and their respective seats being equally spaced about their respective central axes.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to add a second or more transfer wheels to Ansaloni's invention, as taught by Ribani, in order to provide for further conveyance of the articles. Multiple transfer wheels within feeding capsule units are extremely well known in the art.

Allowable Subject Matter

Claims 13-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed 6/21/06 have been fully considered but they are not persuasive.

Applicant argues that they do not claim "a truncated, conical hopper", however claims 8 and 9 do indeed claim these limitations. The "truncated-cone-shaped first outer peripheral surface" is part of the first transfer wheel, which is in turn a part of the base of the hopper. While Applicant contends that a "truncated, conical" hopper is not the same as a hopper having feed channels positioned such that the axes of the feed channels each form an angle of other than 90 degrees with a reference plane perpendicular to the hopper's axis of rotation, it should be noted that a "truncated, conical" first outer peripheral surface of the first transfer wheel, does indeed effect such correlation of the two axes, with regard to "...form an angle of other than 90 degrees..."

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depending on the shape and orientation of the truncation and cone-shaped wheel and/or hopper.

Applicant argues that does not disclose or suggest that the longitudinal second axis of each feed channel forms an angle other than 90 degrees, however as discussed in the previous paragraph it does, since the Leather's hopper is conically shaped.

It should also be noted that Applicant argues limitations not relied up by Leather in the rejection above, such as hopper rotation, a first axis of rotation, feed channels, etc. These limitations were rejected under Ansaloni, as can be read above. The same should also be noted with regard to the Ribani reference.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rashmi K. Sharma whose telephone number is 571-272-6918. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

rks


GENE O. CRAWFORD
SUPERVISORY PATENT EXAMINER

A circular black ink stamp from the Intellectual Property Office (IPO). The text "O I P E" is curved along the top inner edge, and "L A P O" is curved along the top outer edge. The date "JUN 21 2006" is stamped in the center. The words "PATENT & TRADE MARK OFFICE" are curved along the bottom inner edge.

Fig.3

Approved-~~ed~~